

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Chapter 7 Estate of Bernard L.
Madoff,

Plaintiff,

v.

BANK HAPOALIM B.M. AND BANK
HAPOALIM (SWITZERLAND) LTD.,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 12-01216 (CGM)

STIPULATION AND ORDER TO WAIVE ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–*III*, and the estate of Bernard L. Madoff, under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701–784, and defendants Bank Hapoalim B.M.

and Bank Hapoalim (Switzerland) Ltd. (“Defendants,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

WHEREAS, on April 6, 2022, Defendants filed a motion to dismiss the Trustee’s complaint (the “Motion”) [ECF No. 114], with a supporting memorandum of law [ECF No. 115] and the Declaration of Scott S. Balber [ECF No. 116]; on June 9, 2022, the Trustee filed an Opposition to Defendants’ Motion [ECF No. 118] and the supporting Declaration of Keith R. Murphy [ECF No. 119] (the “Opposition”); and on July 13, 2022, Defendants filed a reply in further support of their Motion [ECF No. 121] and the supporting Declaration of Scott S. Balber [ECF No. 122] (the “Reply”, and together with the Motion and Opposition, the “Briefing”);

WHEREAS, the Court scheduled a hearing to consider the Motion on September 14, 2022, at 10:00 am; and

WHEREAS, the Parties have conferred and agree to rest on their papers and waive oral argument on the Motion.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Court will not hear oral argument on the Motion, and thus the hearing scheduled for 10:00 am on September 14, 2022 to consider the Motion is hereby cancelled and removed from the Court’s calendar.
2. The Parties request that the Court issue its ruling based on the Briefing.
3. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: September 8, 2022
New York, New York

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Attorneys for Defendants

/s/ Cecelia G. Morris

**Dated: September 9, 2022
Poughkeepsie, New York**



**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**